SECTIONAL ANALYSIS OF A PROPOSED BILL TO AMEND THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949, AS AMENDED, AND FOR OTHER PURPOSES

SECTION 1.

Under Section 3(a) of the Central Intelligence Agency Act of 1949 the Agency is authorized to exercise certain procurement authorities contained in the Armed Services Procurement Act of 1947. The specific sections of the Armed Services Procurement Act, the authorities of which CIA was authorized to exercise, were incorporated by reference in Section 3(a) of the CIA Act of 1949. Since passage of the CIA Act, additional functions have been assigned to the Agency. This, and added experience, indicate the need to exercise other authorities contained in the Armed Services Procurement Act of 1947.

Under Section 2(c) of the Procurement Act, the Armed Services may negotiate purchases and contracts without advertising in seventeen listed circumstances. The Agency is authorized by Section 3(a) of the CIA Act to negotiate in ten of these circumstances. It is requested that the remaining negotiation authorities of Section 2(c) be given this Agency.

This increase in Agency negotiation authorities, to make them the same as those of the Armed Services, would be accomplished by modifying Section 3(a) of the CIA Act to authorize the Agency to exercise all the authorities contained in Section 2(c) of the Armed Services Procurement Act.

The Agency has substantial and vitally necessary programs in fields where research and development, standardization of equipment and provision of new or stand-by production facilities is a necessity. The negotiation authorities contained in Sections 2(c)(11), (13), (14), and (16) of the Armed Services Procurement Act are requested to facilitate this work.

In addition, in the field of procurement the Agency faces generally the same problem encountered by the Armed Services, although in some cases only to a minor degree. For this reason the inclusion of the negotiation authorities in Sections 2(c) (8) and (9) of the Armed Services Act is requested, as these circumstances are actually encountered although they were not foreseen at the time the Central Intelligence Agency Act of 1949 was enacted.

Medical facilities are provided our personnel in certain necessary and legally allowable circumstances. As indicated by Section 2(c) (7) of the Armed Services Procurement Act, there should be authority to purchase these by negotiation, since considerations of quality and exact composition often must outweigh a small difference in price.

To further contribute to brevity and clarity, it is proposed that the reference to Sections 3 and 4 of the Armed Services Procurement Act be deleted from Section 3(a) of the CIA Act. These are only two of a number of provisions in the Armed Services Procurement Act and elsewhere which apply to our procurement and are followed as a matter of course.

Sections 5 and 6 of the Armed Services Procurement Act are presently applicable to the Agency, and it is proposed that this applicability be continued.

Section 7 of the Armed Services Procurement Act, providing for delegations of authority and covering procedures for making determinations, is included in the CIA Act of 1949 as Sections 3(c) and (d). It is proposed to delete these sections of the CIA Act and incorporate Section 7 by reference.

In fulfilling its unique mission, the Agency lets contracts from time to time for important and novel research and development work. Such contracts often must extend over a relatively long period in order to accomplish the desired result and do not accommodate themselves to fiscal year limitations. The proposed Section 3(b) authorizes such contracts for periods up to five years, which is substantially similar to present authorities for the military departments.

Certain procurement authorities can be exercised under the Armed Services Procurement Act and the CIA Act of 1949 only after a determination has been made by the "head of the Agency." The CIA Act of 1949 defines this term (previously referred to as "Agency head") to mean the Director, the Deputy Director, or the Executive of the Agency. At the time of the passage of the CIA Act, the Agency had an Executive who exercised many of the authorities currently under the jurisdiction of the Deputy Director (Support). It is, therefore, proposed to redefine the term "head of the Agency" for the purposes of this section.

SECTION 2.

Section 5 of the CIA Act of 1949 (P.L. 110, 81st Cong.) provides authority for the payment of travel expenses, allowances and related

expenses. It is proposed to add to the Act at this time authority to pay certain allowances and expenses of this nature which were not generally available to Government employees at the time of the passage of the original Act. In addition, it is proposed that the section be rearranged in order to put certain authorities in more logical sequence.

Section 5(a), as proposed, will provide authority for payment of travel and transportation expenses for employees of the Agency stationed in foreign areas. Except for Sections 5(a)(5) and (8), the authorities provided are the same as those provided in the present statute.

Section 5(a)(5) modifies the authority available in the present Act so as to eliminate the requirement for a determination of emergency conditions before the Agency may store the furniture and household effects of an employee stationed abroad. In many situations, it is considerably less expensive for the Government to store effects than to ship them, and there is no need to ship household effects to many posts abroad. The language is similar to the basic Foreign Service authority which has been in effect for several years. The experience of the Government generally has been such that legislative proposals have now been made to adopt a less restricted approach to this problem on a government-wide basis.

Section 5a(8) will extend to CIA employees the same authorities granted to members of the Foreign Service of the United States by P.L. 22 of the 84th Congress, and its language is substantially identical to Section 11 of that Act. It will permit payment for

one trip to a United States port of entry and return to his parent's post abroad for an employee's child during each of the high school and college periods. The financial and morale problems which this section attempts to allay are serious, particularly for those employees with more than one child of school age. The cost of education and travel within the United States will still have to be borne by the individual or his parents.

Section 5(b) is a revision of Section 5a(2) of the present law. That Section presently authorizes the Agency to charge expenses in connection with travel and transportation to the appropriation for the fiscal year current when any part of the travel of its personnel begins, notwithstanding that the travel may not be completed during that current fiscal year. This authority to date has been limited to travel involving permanent change of station, however. The reasons underlying the original authority, i.e., ease of administration, appear to be equally applicable to temporary-duty travel and this amendment would authorize similar handling of travel expenses whether the travel involved permanent change of station or temporary duty. The revision also extends the authority to the transportation of automobiles.

Section 5(c), in subsections (1), (2) and (3), brings up to date Section 5(a)(3)(A) of the CIA Act of 1949, which provides travel for home leave purposes upon completion of two years' service abroad. The amendment eliminates the requirement that employees have accumulated sufficient leave to carry them in leave status for 30 days in order to

qualify for home leave travel benefits. Under present leave laws it is impossible for some employees to accumulate sufficient leave, and if the proposed companion section providing statutory home leave is enacted the accumulation requirement would be meaningless in any event. The Section also deletes obsolete references (5 U.S.C. 30, 30(a), and 30(b) have been repealed).

Section 5c(4) extends the statutory home leave provisions of the Annual and Sick Leave Act of 1951 to CIA employees stationed abroad, and thus places them on a similar basis to members of the Foreign Service in this regard. The phrases "and as it may hereafter be amended" are inserted in order to equate proposed CIA legislation to any possible changes in government-wide leave legislation. In the event that an over-all bill is passed providing these benefits, there would be no need for this proposed section of the CIA legislation.

Section 5(c) extends the home leave privilege to employees who have completed a tour in a foreign area. There is a need for a period of home leave during which an employee can bring himself up to date on current affairs in the United States and handle personal affairs neglected during long service overseas.

Section 5(d)(1) amends section 5(a)(5)(A) of the CIA Act of 1949, which now authorizes the Agency to pay the travel expenses of an officer or employee of the Agency to a suitable hospital or clinic and return in the event of illness or injury requiring hospitalization, if such employee is assigned abroad in a locality where a suitable medical facility does

not exist. It further provides that if such person is too ill to travel unattended, the Agency may pay travel expenses of an attendant. The proposed amendment extends this coverage to dependents of employees. Because of the location of some of the Agency posts of assignment, adequate medical facilities are often not available. As the members of the employee's family find themselves in these localities solely because of the employee's employment with CIA, as adequate medical facilities are often lacking, and as the cost of travel to adequate facilities is often expensive, it is considered appropriate for the Agency to bear such costs. The existing language is further revised to make clear that the Agency may pay travel expenses of more than one attendant since in some cases, experience has demonstrated the need for more than one in order to assure the well-being of the patient.

Section 5(d)(2)(A) of the proposed bill is the same as Section 5(a)(5)(C) of the existing law.

Section 5(d)(2)(B) of the proposed bill extends limited medical benefits to dependents of an employee who are located abroad because of the employee's assignment to a foreign post. Officers and employees of the Agency and their families are an integral unit. The employee's effectiveness depends in no small measure on the well-being of his family. Considering the additional health hazards which exist in many parts of the world and the fact that employees have no choice as to where they are to be assigned, it is believed that the Government should assist in defraying medical expenses incurred by dependents while they are stationed abroad. Such a provision would

place dependents of Agency personnel more nearly on a par with dependents of military personnel in the matter of medical services.

Inasmuch as dependents cannot be said to be in a duty status, the proposed legislation provides that the illness or injury must be incurred while the dependent is located abroad. It is not intended, moreover, that the Government assume the full cost of providing medical care and treatment for dependents of Agency personnel. It may be noted that the proposed language refers to "an illness or injury requiring hospitalization." Thus, the employee would assume responsibility for less serious illnesses or injuries that do not require hospitalization, except as routine services may be available at first aid stations established pursuant to section 5(d)(3). Second, as is true of officers and employees, the Government would not assume responsibility in cases involving vicious habits, intemperance or misconduct. Also, it is intended that regulations prescribed by the Director will exclude certain types of medical expense such as optional plastic surgery, dental treatment, and normal maternity cases. Finally, it is believed that the employee should defray at least a portion of the medical costs and that a reasonable limitation should be placed on the aggregate liability that the Government, as an employer, should assume. Accordingly, provision is made for the employee to assume initial costs up to $35.00 with the Government assuming responsibility for costs in excess of that amount but not in excess of 120 days of hospitalization for each illness or injury.

In most instances the patient will be treated in a hospital. However, in some instances it will be necessary to provide treatment directly in

the home. For example, hospital space may not be available at the particular post. It may be hazardous to transport the patient to another distant locality where a suitable hospital is available. It is intended that the provisions of this section apply in instances of this type and that, accordingly, such treatment in the home would be considered equivalent to treatment in a hospital or clinic.

The proposed legislation refers to "the costs of treatment of each such illness or injury at a suitable hospital or clinic". In prescribing regulations relative to this language it clearly is intended that such costs would encompass the full range of expenses for medical care and treatment, including ambulance fees, board and room, nursing services, laboratory charges, drugs and medicines, surgical and diagnostic costs, use of X-ray, oxygen, special equipment and related items, and professional medical services.

It is expected that the proposed maximum limitation of 120 days of hospitalization will cover most cases requiring hospitalization. However, in the remaining instances that require more prolonged medical care, it is only equitable that the Government assume an additional responsibility for medical expenses in those instances where the Chief of the Agency medical staff determines that the illness or injury clearly is caused by the fact that a dependent is or has been located abroad. For example, civil strife resulting in serious injury to the wife of an Agency employee or a child's contraction of an infectious disease (despite observance of normal precautionary measures) which rarely occurs in the United States, would seem to warrant the Director's waiving the

120 day maximum limitation provision. On the basis of cumulative experience and, taking into account individual circumstances, the Director would authorize continued payment in such cases for such period as he considers appropriate.

Section 5(d)(3) revises the present Section 5(a)(5)(B) so as to permit the employment of a physician or other medical personnel in addition to a nurse at posts where sufficient personnel are employed to justify such arrangements. It is not intended to establish such facilities at all posts. Where suitable Government or private facilities already exist, there would be no reason to do so. However, at some posts either only the most primitive medical facilities exist or suitable facilities, though they exist, are not available. In these instances, the establishment of essential medical facilities and services is not only beneficial to employees' morale, but also is a practical investment from the point of view of the Government as an employer.

Section 5(d)(4) of the proposed bill revises Section 5(a)(5)(D) of the present law to grant substantially the same authorities providing physical examinations and inoculations to Agency employees as were granted to employees of the Foreign Service under Section 943 of the Foreign Service Act of 1946. Section 12 of the Foreign Service Act Amendments of 1955 authorizes the administration of physical examinations and inoculations to dependents although in the past this had been done in practice. There had been some concern that existing law did not clearly authorize the practice; therefore, this amendment was considered a technical clarification of the existing authority. The proposed revision of Section 5(a)(5)(D) accomplishes the same purpose.

Section 5(d) of the proposed bill will allow the extension of certain medical benefits to CIA employees who are assigned abroad on temporary duty on the same basis as to those on permanent duty. The possibility of line-of-duty illness or injury is equal in both cases. The proposed amendment will thus equalize benefits in this category for CIA and Foreign Service personnel. It had been originally intended that they would be equal, but the present language of Section 5(a) of P.L. 110 expressly restricts the coverage of such benefits to personnel assigned to permanent-duty stations overseas. There is no such restriction in Foreign Service legislation, and these benefits are presently available to all such personnel irrespective of whether they are in a temporary- or permanent-duty status.

Section 5(e) of the proposed bill exists in the present law as Section 5(a)(7). The substance has not been changed.

Section 5(f) of the proposed bill brings CIA authority regarding allowances in line with existing or proposed provisions in other legislation. In addition to the provision of allowances there has been included in a new subsection 5(f)(3) basic authority for the Agency to pay post differentials. The Foreign Service Act as amended, has been used as the principal model. Sections 901(1) and 901(2) of the Foreign Service Act of 1946 were incorporated by reference into Section 5(b) of the Central Intelligence Agency Act of 1949. Since that time, Section 901(2) of the Foreign Service Act has been amended, and further amendments have been proposed in a government-wide Overseas Allowances Act.

Section 5(g) of the proposed bill is equivalent to existing law which now provides that Foreign Service personnel are entitled to exclude from gross income for income tax purposes the various allowances authorized them under the Foreign Service Act. It is desirable that the Agency have similar authority in view of the fact that the provisions of this proposed bill will establish separate and basic authority for the Agency to pay similar allowances.

SECTION 3.

This proposed amendment would raise from 15 to 35 the number of retired officers of the armed services employable by CIA, whose employment by the Federal Government would be otherwise barred by other statutory limitations on the employment of such officers. It was pointed out in the report of the Clark Task Force of the Hoover Commission, and this Agency concurs in its conclusion, that increased use should be made, if possible, of the talents of retired military officers whose ability and experience fit them for the types of work done by this Agency.

SECTION 4.

Section 3648 of the Revised Statutes provides that there shall be no advance of public money unless authorized by the appropriation concerned or by law, or by certain stated exceptions in Section 3648; it provides further that in contracts for the performance of services or the delivery of articles of any description for the use of the United States, payment shall not exceed the value of such service or article delivered previous to such payment. This provision works a hardship in certain foreign countries, whose laws or customs require advance payments,

particularly of rent. Frequent exceptions have been made to this provision of law; e.g., for payments made for the Bureau of Customs in foreign countries (31 U.S.C. 529 b), for the enforcement of customs and narcotics laws (31 U.S.C. 529 f), for the Office of Scientific Research and Development (31 U.S.C. 529 h), and for advance payments of office rent in foreign countries by the Bureau of Foreign and Domestic Commerce. This statute is also specifically waived for the armed services, and the Department of State has acquired an exception in its current Appropriation Act (P.L. 133 of 7 July 1955).

SECTION 5.

This provision corrects a typographical error in Section 10(a)(1) of the Central Intelligence Agency Act of 1949. The authority which was intended to be granted by this clause was the authority to pay claims under the Federal Tort Claims Act (Chapter 171), but the chapter number was omitted from the final printed versions of the bill as passed.